

HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

1. The petitioner and his wife are the caretakers of their granddaughter. Prior to February 2006 the granddaughter was eligible under Department rules (see *infra*) for RUFA benefits as needy child living with "caretaker relatives". In that the granddaughter had no income of her own, the petitioner received RUFA benefits of \$465 a month in her behalf. The petitioner, himself, was employed, and was not considered "needy" under Department guidelines. Therefore, his and his wife's income was not considered in determining their granddaughter's eligibility for RUFA.

2. The petitioner recently retired and began receiving Social Security benefits. Those benefits included a monthly payment to himself of \$1,576, a payment to his wife of \$587, and a payment to his granddaughter of \$789.

3. In February the Department notified the petitioner that due to his granddaughter's income from Social Security, she was no longer financially eligible for RUFA benefits as a needy child of caretaker relatives.

4. The petitioner is understandably upset at this decision in that even though his income was greatly reduced when he retired, his granddaughter lost her income as well, thereby drastically reducing the family's total income.

ORDER

The Department's decision is affirmed.

REASONS

Under the Department's regulations a child living with a "caretaker relative" who does not have the legal responsibility of the child's parent is categorically eligible for RUFA benefits. W.A.M. § 2242. If the income and resources of the child's caretakers are in excess of the program maximums, the caretakers, themselves, are not considered "needy", and they do not qualify for RUFA benefits

in their own right. W.A.M. § 2242.5(2). However, in determining whether the *child* is financially eligible for RUFA, the caretakers' income is not considered available to the child. W.A.M. § 2242.5(3).

Under these rules, prior to February 2006 the petitioner's granddaughter qualified for RUFA as a household of one because she had no income of her own, and her grandparents' income was not considered available to her. However, when the petitioner retired and began receiving Social Security his granddaughter also began receiving a monthly Social Security check in her own name. Because her check (\$789) was in excess of her RUFA payment (\$465) the Department determined that she was no longer financially eligible for RUFA.

There is no question that under the regulations Social Security benefits payable to and received by any individual are counted as income in determining that individual's eligibility for RUFA. W.A.M. § 2252A. Unfortunately, nothing in the regulations indicates that caretaker relatives of a child on RUFA can be sheltered from the usual drops in family income that accompany retirement from work. Although the loss of the petitioner's granddaughter's RUFA income undoubtedly was severe and unanticipated, it is clear that

the Department's decision in this matter was in accord with its regulations. Therefore, the Board is bound by law to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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